

**The Virginia Indigent Defense Commission  
Budget Committee Meeting  
1604 Santa Rosa Road, Chesterfield Room  
Richmond, Virginia  
May 21, 2009**

Budget Committee Chair, Judge Edward Hanson called the meeting to order at 11:10 am. Other Commission members in attendance were Judge Alan Rosenblatt, Carmen Williams, and Kristen Howard. Administrative staff included Executive Director, David Johnson; Deputy Director, DJ Geiger; Bryan Aud, and Diane Pearson.

With four Commission Members in attendance, quorum requirements have been met.

The first item on the agenda is to approve the minutes of the previous Budget Committee meeting.

Judge Rosenblatt moved to waive the reading of and approve the minutes of the June 2, 2008 Budget Committee meeting. Ms. Williams seconded the motion. The motion carried.

The next item on the agenda is the proposed budget for fiscal year 2010.

Mr. Johnson reported that Mr. Aud did a summary of the budget which is in the handout for everyone. The process we started a couple of years ago was to get the public defenders more involved in their budgets. They started out with their base budgets from last year and made their requests to Mr. Aud.

There is a difference on the first page in salaries for full time employees. We are showing \$275,000 less this year which was part of our required budget reductions. This involved a couple of part time positions that were eliminated and was part of our original \$450,000 give back. In fiscal year 2010 we also have to come up with another \$94,000. That is being accomplished by not filling a position in the Arlington office that Vanessa Hicks occupied when she was the Deputy Public Defender. Ms. Hicks has since become the Public Defender. That position will not be filled until 2011. Based on the caseload numbers, the Arlington office does not need the position.

Mr. Johnson welcomed Maria Jankowski who joined the meeting.

Mr. Johnson went on to say that when the Arlington position becomes fillable, we will probably be talking to the Commission about reallocating it to another office whose caseload would justify having the position.

Continuing with the summary, Mr. Johnson advised of an increase in the budget line items for part time salaries. Over the years public defenders have taken some full time positions and shared them among two part time employees. For whatever reason, the positions were still

shown in the budget within the full time position category. This just reflects more accurately the way we pay it.

Mr. Johnson clarified the policy of utilizing a full time position to create two part time positions. If it will not require additional funds, it can be approved. One way creating two part time positions may cost more is if we don't have space for two part time attorneys. Instead they would receive an office allowance. If you want to take an APD I position and split it with two people who aren't going to work out of your office, there is extra money involved for the office allowance causing the cost to exceed what is budgeted for an APD I position and we can't do that.

There was discussion about splitting full time positions, and benefits for part time employees.

Mr. Johnson said that we will be spending less this year on fringe benefits partly because of a new contract with health care.

Mr. Aud added that all of the benefits paid for full time employees were reduced with the exception of social security and retirement which have stayed the same. Retirement actually went up but the amount was negligible compared to the other reductions.

There was discussion regarding the state contract for health benefits. The cost to the employee went up through co-pays and the cost to the state went down.

Ms. Geiger added that the health care plan is negotiated annually for the state and adjustments are made each year.

Mr. Johnson said that the \$43,000 figure under wage salaries is the amount we pay Bonnie Farrish for working  $\frac{3}{4}$  time. We wanted to add it to the budget because it helps with our planning. It's paid for out of turnover and vacancy and it's something we have been paying for a while now.

The deferred compensation is something that more employees are getting involved with and we have some matching expenses.

There was discussion about the turnover and vacancy rate.

Mr. Johnson said that we budget the turnover and vacancy at 105 percent and that pays for the raises to entry level salaries that were adjusted a couple years ago to help curb our turnover. This has to be paid every year. Rent also comes out of turnover and vacancy. We have rent increases and have not received funds to cover those increases. I believe the rent this year is \$100,000 more than last year.

One reason we have a ninety day hiring delay when someone leaves a position is that we have to pay them for their unused leave. It is a net loss if we start someone right away.

There was discussion regarding the amount of annual leave employees receive and how it adds up when it's not used. When an employee leaves the agency they are paid for any unused annual leave.

Ms. Geiger said that she will discuss this with Amy Williams and find out if there is a statutory requirement or another requirement on us as a state agency that eliminates our ability to follow the state's policies. She added that she will look at the authority of the Commission and if we are required to follow the state policies.

Ms. Geiger added that it might be a good idea to analyze the average leave balances of each of our employees. If they aren't stockpiling their leave and there aren't a lot of them that are going to have a huge pay out, do you really want to go down that road. The anger of the employee may not be worth the policy change.

There was discussion regarding taking this to the policy committee or the full commission, or if it should stay with the budget committee. If the authority isn't there then there is no reason to pursue it further.

Mr. Johnson said he would look into it and report to the policy committee.

Mr. Johnson went on to say that our total personnel costs will be less this coming year.

Under Contractual Services, there is a line item for freight services where we have a 250 percent increase because our capital defender office in Manassas is moving into our public defender office in Arlington. That is the moving cost. The telecommunications cost is the moving of the phones and all of the IT equipment.

We went through our overall budget and we made reductions and decided we could do things differently. Our printing costs are going to be down because we are emailing a lot of the documents for programs; this was part of the \$450,000. He explained that the Annual Conference is not in the budget right now. One of the things we are bracing for is Governor Kaine's request for more from agencies. So far we have managed to give what we have without a big impact on personnel. One of the reasons we are able to do it this year is because of the \$80,000 we would have spent on the Annual Conference. When they come back, we have very few options left, if any.

We held the forensics training last Friday with a representative from every office here. We had speakers from around the country, and it was the best reviewed training we have ever had. The evaluations were phenomenal. The speakers volunteered their time. We flew them in and put them up in a hotel, paid their mileage. We are putting the program on DVD so the offices can use them to train their attorneys. The total cost was about \$7,000, as opposed to \$80,000. By the time all of the lawyers get the training it will come out to about \$23 per lawyer to get them six hours of quality training. Not as good as getting everyone together, and there are other advantages to it. If we get through the year and they don't come back for more cuts, maybe we can do something.

Doing more of our trainings on DVD we look to reduce the cost of moving employees around the state to go to trainings. These reductions were part of getting to the \$450,000.

For recruitment and advertising, with lower turnover, there is less of a need to advertise, one of the side benefits of the economy.

Mr. Johnson continued with skilled services which is paying for the caseload study. This is contractual.

Ms. Geiger added that there is a second project in the Skilled Services line item. The last three phases of the Caseload Study will be very close together, and they are hoping to be done by September or October. The last three phases are going to need to be paid in one fiscal year. The second project is the Enterprise Content Management (ECM) System. This is a new project the state has been looking at and basically is to get all information on an electronic storage system. There are different versions of it but we hope to create a place where all of our documents are saved. Each employee, based on their job title and responsibilities would have an assigned access level to the information. For example if you received a Freedom of Information Act (FOIA) request on something, the document would be classified as to whether it is exempt or not from Freedom of Information. You could also classify the document for retention purposes under the Library of Virginia requirement and allow access to that documentation based on access and FOIA limitations.

The theory is that we would save on storage space costs for paper files and would be able to save documentation in an electronic format that is always available and backed up. We would have fewer issues with security of data. This is still being developed by VITA and another agency. We would probably not go back in time and scan our data but we would pick a date and go forward and create electronic records.

Mr. Aud added that he believes the number that went into skilled services was an estimate of about \$70,000 and this is where we would pay consultants to put in place what we would need to do here. About \$95,000 total, \$75,000 in this line item and there is another line item where we will have other computer equipment.

Ms. Geiger said the case study is about \$30,000 per phase.

Mr. Aud reiterated that the ECM project cost is \$95,000 total and it is not all in this line item. If we move to the electronic content management, we would also need to buy some computer equipment so there is some money put in there for the line item "other computer equipment."

Ms. Geiger added that right now they need a certain number of agencies to commit a certain number of users, and once they get to that number they will be able to come up with more concrete costs. This is an estimate based on information Mr. Ernouf has been provided to date as what the contractors and VITA think the cost will be.

The Department of Environmental Quality (DEQ) has actually designed their own version of electronic content management and a couple of other agencies are looking at trying to get to

that point. It is a cost issue because of the budget right now. The way this is being marketed is that at some point it starts saving money on storage of documents. For DEQ it is easy to see the cost benefits because they get a ton of FOIA requests. They would like to have a computer in their lobby so if a member of the public has a request, they would go to this computer, type in a search and it would pull all of the open FOIA-able documents, and then burn the information to a CD. That is what they are trying to do to be user friendly, and it will save their staff time.

For our agency, we have gotten FOIA's mostly in regard to litigation issues or personnel matters and have spent hours of staff time pulling and making copies. This would not be for all of our employees. It would start small with the administrative office because that is where most of the data is kept. We could expand it once it was up and running.

Mr. Johnson continued with IT design and development. The increase is for funding for the IT security management audit. We are now required to have an external source come in and audit us annually. It is a classic, unfunded, mandate and this is the money to do it.

Ms. Geiger added that in FY09, the Auditor of Public Accounts (APA) was kind enough to audit us so we didn't have that charge. The \$87,000 is the average of the proposed bids that Mr. Ernouf received for the audit. Before we knew we were going to be audited by the APA, we put out bids for the audit to a list of state approved contractors. Based on the bids he received, this is the average amount. Everything that the APA planned to audit us on was required of the private audit, so the APA audit was used this year, but there is no guarantee they will do that every year. We have taken the average of what the bids were and put it in the budget to plan for it.

For IT security there is a policy, a standard, and guidelines. The auditors are looking for compliance with each of these.

Mr. Johnson added that we have to put this in the budget, like all state agencies, we have to do this. If the APA doesn't do this or they determine that the audit they did last year doesn't meet this requirement, we would be in trouble.

Ms. Geiger said that we are planning for this. If we can get a better deal or a more frugal way to do it, we will.

Mr. Johnson went on to hardware maintenance. This is one of the benefits of the new computer equipment, the cost of maintaining it has gone down. The computer software proposed amount brings it in line with what the expenses actually were.

Mileage reimbursement has decreased because we are doing less live training. We have implemented the Enterprise rental car program that the state has required. If there is a trip that is going to be 100 miles or more we are required to rent a car from Enterprise. The deal the state has with Enterprise is phenomenally inexpensive. The other option we have given employees is if it is a 110 mile trip they can voluntarily record 99 miles and get full reimbursement.

Because of the reduction in trainings, we have reduced overnight travel and meals associated with that agency-wide. We have made reductions here toward the \$450,000. This is where we are reducing things, trying to stay away from personnel.

We cut back on office supplies.

Electrical repair and maintenance is a labor cost not equipment cost for a voicemail system or other electrical system repair.

The Diamond Springs water contract is for our Newport News office which is in a stand alone, old building and has no water except for sinks in the bathroom so we allowed them to get a water cooler.

The plant building rental is for rent increases every year that are built into the leases for which we do not get additional money. We will realize a bit of savings when we move the Manassas office to Arlington. All of the issues that have come up the landlord has worked with us. The offices will have separate entrances.

The continuous charge is rent.

Voice / Data equipment is our phone and voicemail systems which will be a big expense for our oldest phones and voicemail systems replacement which is something we have to do.

There was discussion regarding copiers and replacement of old copiers. We will be replacing a number of copiers this year and the next set of oldest copiers will be replaced next year because maintenance is going up, this will reduce the maintenance cost. The first year maintenance and supplies are included in the price. Where possible we are networking the copiers to become printers. We are removing the printers because they are more costly to operate.

Mr. Johnson continued by advising the total agency budget is a little over \$43 million. This year we lost \$1.4 million in carryforward money and \$450,000 in budget reductions and another \$24,000 in the second round of budget cuts. Next year it will be the \$450,000 plus \$94,000 on the two rounds of budget cuts with the potential of more coming. If that happens we have some hedges against that. Some were identified with projects we might not have to do. We have some positions in Arlington in addition to the 1½ positions that were included in the \$450,000 and the \$94,000 budget reductions. Our plan is to keep these positions unfilled for a while. When we know we can fill them, we will come to the Commission with a proposal to redistribute them to other offices. We would like to put them in offices where the caseloads justify having them.

Each office's individual budget is included here. Each Public Defender was provided with their base budget from the prior year. We asked each office what cuts they could make on their own. For purposes of planning, when we meet with them every year and they want new positions, we tell them to put that in their budget request. The public defenders managed to shave another \$78,000 from their costs, but they also asked for \$1.3 million in new positions and

promotions. Most of them understand that is not going to happen right now, but we need to know for future planning. Their involvement with their budgets has increased.

We had a management training with the public defenders a couple years ago and went through each of their budgets line by line and explained what each of the items includes.

Mr. Aud has been forecasting, and tracking what our money situation is. In years past we have had more money left over at the end of the year. The estimate at this point, and it depends on turnover and vacancy and what bills come in, is that we will have about \$203,000 left at the end of the year. This is a very small part of one percent of our budget, which is really cutting it thin. We recognize whatever we have leftover we are likely to lose.

Ms. Geiger added that for the individual office budgets, we have compared line items across the board. Where we thought there was an anomaly or someone was really low and someone was really high, we tried to identify what could account for that difference. Is it a geographical issue or is it the way they practice? For postage, do they send out a lot of follow up letters to clients? Are their clients in regional jails a hundred miles away? We are trying to come up with reasons for specific differences.

The Alexandria office is in the red but not by much, salaries are higher in northern Virginia by ten percent and there are a larger number of cases.

Caseloads are up, some offices have asked for supplements.

Mr. Johnson said that if individual Commission members have questions, we will try to have answers for them.

Judge Rosenblatt made a motion to recommend adopting the proposed budget to the Full Commission. Ms. Howard seconded the motion. The motion carried.

There was no further business.

Judge Rosenblatt made a motion to adjourn. Ms. Howard seconded the motion. The motion carried.

The meeting adjourned at 12:15.

Respectively Submitted:

Approved By:

---

Diane Z. Pearson, Administrative Assistant

---

David J. Johnson, Executive Director